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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,269	08/03/2001	Stanley J. Checketts	PSSAIR	2507

7590 05/09/2003

FEHR LAW FIRM  
Goldenwest Corporate Center  
Suite 300  
5025 Adams Avenue  
Ogden, UT 84403

EXAMINER

NGUYEN, KIEN T

ART UNIT PAPER NUMBER

3712

DATE MAILED: 05/09/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	<b>Application No.</b> 09/923,269	<b>Applicant(s)</b> CHECKETTS, STANLEY J.	
	<b>Examiner</b> Kien T. Nguyen	<b>Art Unit</b> 3712	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 85 is/are allowed.
- 6) ☒ Claim(s) 1,6-9,14-17,34-49,51,68-83 is/are rejected.
- 7) ☒ Claim(s) 2-5,10-13,18-33,50,52-67 and 84 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Balwanz U.S. Patent 5,649,866.

Balwanz disclosed an amusement ride comprising one or more towers (24, 26, 28) with at least one of the towers having a flexible upper portion base on an inherent characteristic of the towers, a cable (34) suspended from each tower and having a first end and a second end, a carrier (22) for one or more participants attached to the second end of the cable, means (36) for propelling the carrier and being attached to the cable other end at the second end of the cable as shown in Fig. 1, a harness (60) attached to a locking apparatus (108) connected to the carrier (see Balwanz U.S. Patent 5,649,866), spools (36) maintain the tension of the cable.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 34-49, 51, 68-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balwanz ('866) in view of Checketts U.S. Patent 5,704,841.

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It is noted that Balwanz failed to teach the means for propelling the carrier as being fluid-powered cylinder as set forth in these claims. However, Checketts ('841) disclosed a pneumatic amusement device having a carrier (16), a cable (9) attached to the carrier at one end and to a fluid-powered cylinder (1) at the opposite end, the cylinder having an aperture (4) in a first end and an aperture (6) in the second end, a side and an interior, a piston (3) slidably mounted within the cylinder, the cable (9) passing through the aperture (5) and the aperture (6) and being attached to the piston, a valve (19) for injecting the fluid to propel the piston and being near the first end of the cylinder. Therefore, it would have been obvious to one of ordinary skill in the art to modify the towers of Balwanz with the means for propelling as taught by Checketts ('841) for the purpose of enhancing the efficiency of the means for propelling (36) of Balwanz.

#### ***Allowable Subject Matter***

Claims 2-5, 10-13, 18-33, 50, 52-67, 84 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 85 is allowed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-85 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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A handwritten signature in black ink, appearing to read 'Kien T. Nguyen', written in a cursive style.

Kien T. Nguyen  
Primary Examiner  
Art Unit 3712

Ktn

May 5, 2003